

Vogel Paint and Wax Superfund Site

Location: Maurice, Iowa

Lead Division/Office: SEMD

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Key Message

The Environmental Protection Agency (EPA) is working with Iowa Department of Natural Resources (IDNR) and the Potentially Responsible Party (PRP) (Diamond Vogel) to resolve concerns about groundwater contamination that has migrated to offsite areas beyond the point of compliance selected in historical site decision documents.

Background

The site is a state-lead National Priorities List (NPL) site managed by IDNR. The Superfund decision document, Explanation of Significant Differences (ESD) was signed in October 2000. This ESD established, as part of the Remedial Action Objective, the groundwater cleanup “point of compliance” at the site property boundary. The site is a state-lead NPL site managed by IDNR. IDNR prepared the October 2000 ESD and the EPA concurred with it. IDNR is party to a Consent Decree with Diamond Vogel to implement the remedy, and IDNR oversees the work. EPA is the lead agency for conducting Five Year Reviews at the site.

During the fifth Five-Year Review (FYR) process in 2019, EPA noted that the point of compliance approach is not consistent with EPA Guidance and national program groundwater policy. The EPA advised IDNR to consider changing the point of compliance from the site boundary to having the groundwater cleanup across the entire plume. The cleanup of the entire groundwater plume would address the expanding onsite contamination, as well as offsite migrated contamination. This approach of addressing the entire onsite and offsite plume would enable minimizing and preventing the expansion of onsite plume, address the offsite plume, and meet the criteria for enabling eventual site deletion from the NPL list. EPA Region 7 has engaged Office of Superfund Remediation and Technology Innovation (OSRTI) on the issue, and OSRTI supports changing the point of compliance approach.

Both IDNR and Diamond Vogel, through their legal counsel, strongly objected to changing the point of compliance, citing the fact that EPA had agreed to the decision in 2000, and had not raised the issue in previous FYRs. In July 2019, Verdant Law, legal counsel for Diamond Vogel, sent EPA a letter stating their objections and requesting the opportunity to discuss the issue with IDNR and EPA.

Over the past few years, Diamond Vogel has agreed to conduct additional work outside the scope of the existing Consent Decree to address source areas on their property, and, to conduct pilot studies to address at least some of the groundwater contamination that has migrated beyond their property line. Diamond Vogel has initiated implementation of the Pilot Study to evaluate the bioremediation technology and its impact to the groundwater contamination, as well as to address pending recommendations from 2014 fourth Five Year Review report. The Design Plan Addendum to the Pilot Study submitted by Diamond Vogel for regulatory review has been finalized.

EPA signed the fifth FYR on Sept 10, 2019. The FYR notes the inconsistency with the national groundwater policy as part of other findings listed in the recently signed fifth FYR report. The FYR does not suggest the need for an amended remedy as it would be dependent on the outcome of the pilot studies.

EPA held a coordination call with IDNR on September XX, 2019 to discuss the final language in the FYR and to discuss the path forward for the pilot studies at the site. During this call, EPA also offered to meet with IDNR and Diamond Vogel to reach a mutually agreeable resolution of the issues.

The EPA has responded to several letters and Congressional inquiries since the signing of the fifth FYR report on September 10, 2019. These letters were sent to Congressional Offices of Senator Ernst and Senator Grassley.

Upcoming Actions/Next Steps

EPA intends to hold meeting with IDNR and Diamond Vogel with their attorney to discuss EPA's policies, processes, and requirements related to EPA's Five-Year Review guidance, Point of Compliance for groundwater cleanup, Institutional Controls at the site, requirements related to site deletion from NPL, and other issues as may be identified by Vogel and their attorney.

Key Stakeholders

Vogel – PRP at the site

Verdant Law – legal counsel for Vogel

IDNR – lead agency for the Superfund site

EPA Region 7 – lead agency for Five Year Reviews at the site

Other Issues or Sensitive Topics

The Fifth FYR concludes that the remedy at the Site is short-term protective, offering two recommendations:

1. The agency first recommends that additional source removal efforts be undertaken to reduce off-site migration of contaminants. Diamond Vogel would implement these efforts as part of the pilot studies at the site.
2. Second, the agency recommends that proprietary controls be implemented to prevent exposure to contaminated groundwater at the Site. A proprietary control will provide an additional institutional control layer to the Site's current listing on Iowa's Registry of Hazardous Waste Disposal Sites, which is an informational device that itself does not establish an enforceable prohibition against uses of on-site groundwater that may lead to human exposure. Diamond Vogel would most likely agree to the implementation of these institutional controls sometime during the implementation of the pilot studies.